IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.18287 of 2007
BINAY YADAV @ BINAY KUMAR YADAV & ORS
Versus
STATE OF BIHAR & Ors.
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6. 9.5.08 Heard Mr. N.K. Agrawal for the petitioners, Dr. Maya Nand Jha for opposite party no.1, and Mr. Sita Ram Yadav for opposite party no.2. Three petitioners namely, 1.Binay Yadav @ Binay Kumar Yadav 2. Sanyukta Devi and 3. Rajeev Ranjan @ Rajeev Yadav, have joined this application under section 482 of the Code of Criminal Procedure(hereinafter referred to as the Code) with the prayer to quash the order dated 7.2.2007, passed by learned Sub Divisional Judicial Magistrate, Bhagalpur, in Sabour P.S. Case No. 286 of 2005/ G.R. No.2422 of 2005 (State of Bihar Vs. Mikki Devi & ors.), whereby cognizance of the alleged offences has been taken under sections 498(A), 323, 394 of the Indian Penal Code, section 3 and 4 of the Dowry Prohibition Act, as well as section 3 of the Domestic Violence Act, 2005.

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2. One Vidya Devi filed a complaint petition before the learned Chief Judicial Magistrate, Bhagalpur. The same was forwarded to the local police for investigation. The same

was registered as Sabour P.S. Case No. 286 of 2005, dated 4.9.2005(Annexure-1). It is stated therein that she was married to one Manoj Kumar Yadav, an Engineer working in Delhi. After the marriage, the couple lived together at the village home of her Sasural, as well as in Delhi where the husband was posted. The initial days of marriage were spent with happiness, but the situation soon thereafter changed. The husband started ill-treating the wife, and also pressurizing her to get further dowry in cash as well as a flat in Delhi, from her father. He (the father) father is a retired Professor of Agriculture, Sabour Agriculture College, Bhagalpur. The informant put up with it for some time but the situation became rather un-bearable. She had fallen ill in the meanwhile but neither the husband nor her in-laws took any step for her treatment. It is further stated therein that she was tortured by the husband as well as her other Sasural's people.

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2.1 Petitioner no.1(Binay Yadav @ Binay Kumar Yadav), and petitioner no.3(Rajeev Ranjan @ Rajeev Yadav), are full brothers of the husband, and petitioner no.2(Sanyukta

Devi) is the wife of petitioner no.1. It is further stated therein that her Sasural people including the petitioners herein had combined together in tormenting the informant. She was ultimately taken away by her elder brother to ensure her treatment. She had already filed a complaint when she was alive. She, however, died and her father has been substituted as opposite party no.2 herein(Ram Swarath Yadav).

3. The police investigated the allegations levelled in the First Information Report and submitted charge sheet and cognizance has been taken away by the impugned order.

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4. While assailing the validity of the impugned order, learned counsel for the petitioners submits that petitioner nos. 1 and 3 are members of defence force of India who are posted at different places. Petitioner no.2 also lives at her husband place and had, therefore, no occasion to interfere with the matrimonial life of the informant and her husband. He further submits that it is typical case of vengeance on the part of the aggrieved

wife to level omnibus allegations against the Sasural people. He relies on the judgment reported in 2005 (1) S.C.C.608 (Sunita Devi Vrs. State of Bihar & Another).

5. Learned counsel for opposite party no.2 has opposed this application and submits that it is manifest from the materials placed by the petitioners before this Court that petitioner nos. 1 and 3 were on various occasions on long leave. He further submits that the said Manoj Kumar Yadav has ultimately married the sister of his Bhabhi. The allegations in the F.I.R. read with the statements recorded in the case diary, constitute a prima facie case to go to trial. The impugned order of cognizance has, therefore, been rightly passed.

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6. We have perused the materials on record as well as the case diary. We have also considered the submissions of the learned counsel for the parties. It appears to us that the materials on record do constitute a prima facie case against the present petitioners. It also appears that the Sasural people alongwith

the husband were tormenting Vidya Devi which resulted in an unbearable situation for her, as a result of which she had to leave matrimonial home and go over to her parents place. It further prima facie appears that the husband or her Sasural's people had declined to ensure her treatment. In that view of the matter, I am not inclined to interfere with the impugned order of cognizance.

7. This application is dismissed.

(S. K. Katriar, J.)

Vinay/

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